APPENDIX A

BIOLOGICAL RESOURCES SURVEYS

PREPARED BY: H.T. HARVEY & ASSOCIATES, INC.

MAY 1999 & APRIL 2007



20 May 1999

Nora Monette David J. Powers & Associates 1885 The Alameda, Suite 204 San Jose, CA 95126 TEL: 408. 248-3500

FAX: 408.248.9641

RE: Mercury News residual parcels Burrowing Owl surveys.

Dear Nora:

On 6 May 1999, I conducted a survey of the Mercury News property, located south of Brokaw Road east of the off-ramp from I-880 northbound to Brokaw Road, north of Ridder Park Drive, and west of Coyote Creek in San Jose, California. The purpose of this survey was to identify any existing Burrowing Owls (*Athene cunicularia*) or potential for their use of the site that may be impeded by future development of the parcel.

The site is mostly comprised of sparse, ruderal vegetation. Additionally, the site supports California ground squirrels (*Spermophilus beecheyi*) which create potential habitat for Burrowing Owls. No Burrowing Owls were observed during our initial survey, but because the site was consistent with potential habitat, a series of protocol-level surveys was required to determine with acceptable certainty whether Burrowing Owls occupied the site at this time. These protocol surveys were conducted on the mornings of 11, 12, and 20 May, 1999. No Burrowing Owls, nor secondary evidence of their occupancy of the site (e.g., feathers, castings, prey remains) were observed during any of these surveys. Thus, the site appears to be unoccupied by Burrowing Owls at this time. A review of basic Burrowing Owl ecology and a synopsis of laws protecting owls follows:

Ecology/Regulations Overview/Definitions.

The Burrowing Owl is a small, terrestrial owl that occurs in annual and perennial grasslands, deserts, and scrublands with low-growing vegetation. Suitable owl habitat may also include trees and shrubs if the canopy does not cover more than 30% of the ground surface. Burrows, which provide protection, shelter, and nests for Burrowing Owls, represent an essential component of this species' habitat. Burrowing Owls typically use burrows made by fossorial (burrowing) mammals, such as ground squirrels or badgers, but they will also use man-made structures such as culverts, or openings beneath cement, asphalt paving, or debris piles. Burrowing Owls use such sites for breeding, wintering, foraging, and migration stopovers. Occupancy of suitable habitat may be verified by observations of one or more Burrowing Owls on the site, or presence of owl feathers, cast pellets (or prey remains), eggshell fragments, or excrement in or near a burrow entrance.

Burrowing Owls and other raptors are protected under a variety of state and federal laws including the amended Migratory Bird Treaty Act, (16 U.S.C. 703-711). This Act prohibits the "taking of active nests, eggs, young, or adults." "Take" is defined as "to pursue, hunt, shoot, wound, kill, trap,

capture, or collect, or attempt to pursue or collect" a bird. California Department of Fish and Game (CDFG) Code 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird." CDFG considers the Burrowing Owl a "Species of Special Concern." Species included on the list of species of special concern are those "whose breeding populations in the state have declined severely, or are otherwise so low that extirpation is a real possibility."

In summary, no Burrowing Owls were observed on site, but the property was found to be consistent with potential nesting habitat. Please note that survey results will remain valid for no more than 30 days.

Please telephone if you would like to discuss this in greater detail. Thank you for the opportunity to provide this service.

Sincerely,

Denise Hardesty Wildlife Biologist

Bolandesty

proj. 1532-02



SAN JOSE MERCURY NEWS RESIDUAL PARCELS MISCELLANEOUS BIOLOGICAL SERVICES

Prepared for Nora Monette David Powers & Associates, Inc. 1885 The Alameda, Suite 204 San Jose, CA 95126

Prepared by H. T. Harvey & Associates

Daniel Stephens, Senior Restoration Ecologist, Principal Eric Webb, Ph.D., Restoration Ecologist, Project Manager Brian Cleary, M.S., Plant Ecologist Max Busnardo, M.S., Restoration Ecologist David Plumpton, Ph.D., Raptor Ecologist

November 20, 1998

Project Number 1532-01

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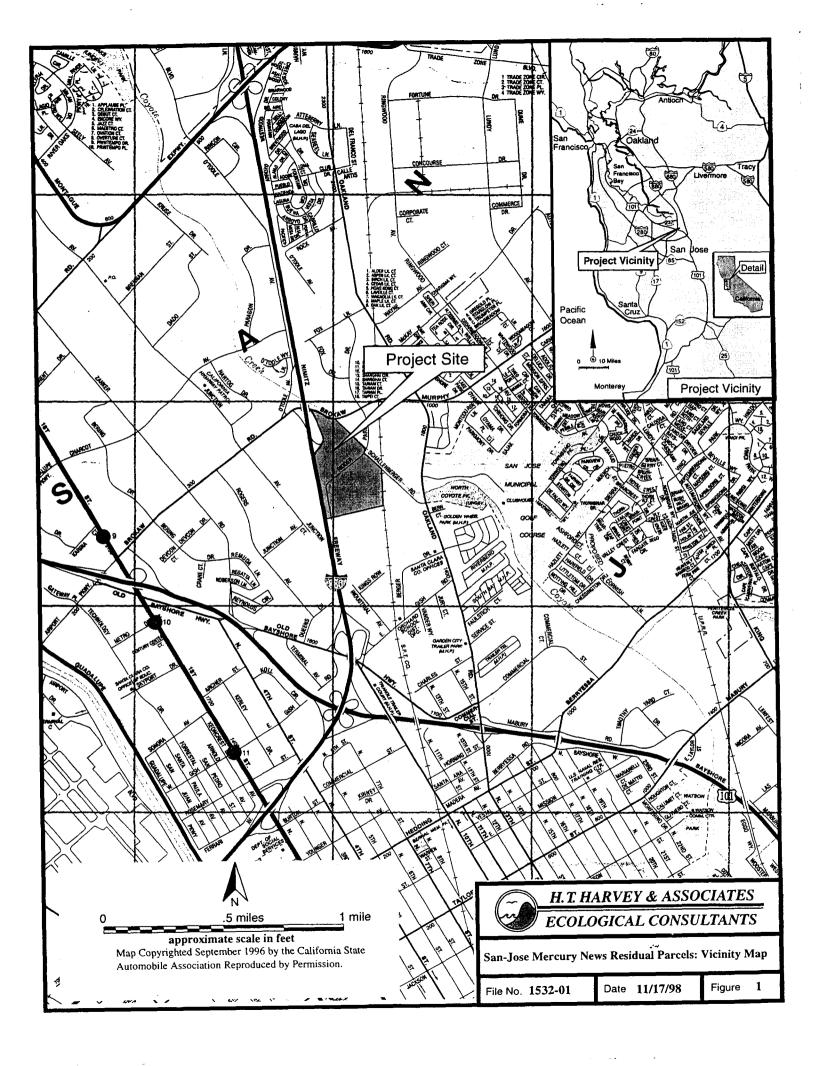
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1.0 INTRODUCTION

The San Jose Mercury News Residual Parcels, the subject of this report, is located south of Brokaw Road, north of Ridder Park Drive and West of Coyote Creek in San Jose, Santa Clara County, California (Figure 1). The property is comprised of four parcels, all of which border Coyote Creek. The biological services conducted at the San Jose Mercury News Residual Parcels include a survey of the riparian corridor of Coyote Creek adjacent to the property, a tree survey and a Burrowing Owl (Athene cunicularia) survey.



2.0 RIPARIAN SURVEY

2.1 Introduction

A riparian survey of Coyote Creek bordering the San Jose Mercury News Residual Parcels was conducted (Figure 1). The purpose of this survey was to determine the location of the riparian corridor on the property, evaluate the plant species composition and habitat quality of the riparian corridor and recommend an appropriate setback for any future development at the site.

2.2 Methods

Max Busnardo of H. T. Harvey & Associates conducted a riparian survey on 12 November 1998. The riparian corridor boundary along the western bank of Coyote Creek was delineated on the San Jose Mercury News Residual Parcels (parcels 35, 49, 50, and 51). The portion of the creek surveyed (survey reach) extends from the railroad tracks north to Brokaw Road (Figure 1). The boundary of the riparian corridor was defined as the top-of-bank, or the dripline of riparian vegetation where riparian vegetation extended beyond the top-of-bank. The riparian corridor boundary was mapped onto an aerial photo of the site (scale: 1 in = 100 ft) obtained from San Jose Blue. The species composition and habitat quality of the riparian plant association along the western bank of the survey reach was also assessed.

2.3 Riparian Habitat Characterization

Coyote Creek is a major drainage in the Santa Clara Valley. It carries perennial flows to San Francisco Bay and supports riparian forest throughout much of its length. A relatively dense, multi-layered canopy composed of mature, native tree species covers the riparian corridor throughout the survey reach. Fremont cottonwood (*Populus fremontii*) and California sycamore (*Platanus racemosa*) are the dominant overstory trees and range from approximately 20 feet to greater than 60 feet in height. The mid-level canopy is comprised primarily of box elder (*Acer negundo*), red willow (*Salix laevigata*), and English elm (*Ulmus campestris*), an invasive, non-native species. Mexican elderberry (*Sambucus mexicana*) and California bay (*Umbellularia californica*) also occur at lower abundances. The understory is composed primarily of California blackberry (*Rubus ursinus*) and periwinkle (*Vinca major*). Like English elm, periwinkle is an invasive, non-native species that has escaped from landscape plantings. Poison oak (*Toxicodendron diversilobum*) is a sub-dominant along the western bank of Coyote Creek and is abundant along the east bank of the survey reach. A small patch of giant reed (*Arundo donax*) occurs at the southern end of the survey reach.

A levee borders the western edge of the riparian corridor between Ridder Park Drive and Brokaw Road. Coyote brush (*Baccharis pilularis*), a common native shrub on disturbed sites, is scattered in patches along the top of the levee. Two large, mature California sycamores are rooted approximately 50 feet west of the levee.

2.4 Riparian Setback Recommendation

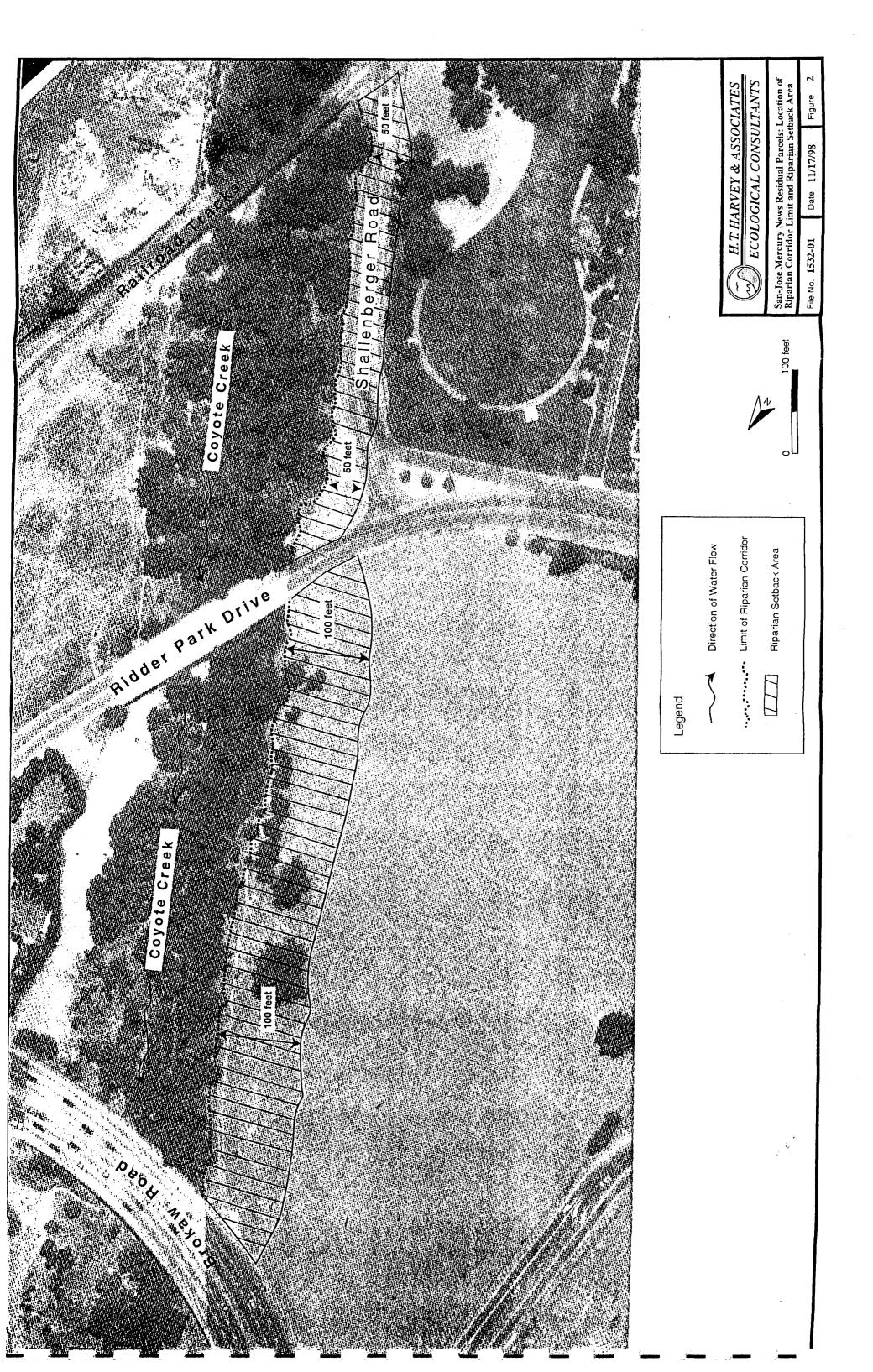
The close proximity of human activity and structures to riparian habitat adversely affects wildlife use within riparian corridors. Riparian corridor setbacks are the principle means of minimizing impacts to wildlife associated with human activities. Riparian setbacks of up to 100 feet are often recommended by the resource agencies (e.g., CDFG and USFWS). For these reasons, the City of San Jose established a Riparian Corridor Policy that uses 100 feet as its basic setback from streams with moderate to high quality riparian habitat (City of San Jose, 1994).

The riparian habitat along the survey reach is of high value to wildlife due to the dense cover, multi-layered structure, and food resources provided by the native riparian trees and shrubs. The riparian trees and shrubs that occur along the survey reach provide food, shelter, nesting, and an appropriate microclimate for wildlife that inhabit riparian ecosystems. Mature riparian habitat, such as that along the survey reach, has been found to support the highest diversity and abundance of bird species of any habitat type in Santa Clara Valley's urban landscape (Rottenborn 1997). Consequently, a 100-foot setback from the riparian corridor is recommended between Ridder Park Drive and Brokaw Road (Figure 2).

Although riparian habitat quality is high throughout the survey reach, a reduced setback of 50 feet is recommended between the railroad tracks and Ridder Park Drive (parcel 51). A reduced setback is recommended for this parcel because it is a site with a disproportionately long riparian frontage and is impacted by the presence of Shallenberger Road that runs along the western edge of the riparian corridor in this reach. The reduced setback will not significantly reduce or adversely impact the riparian corridor.

2.5 Landscaping in Riparian Setback Areas

In accordance with the City of San Jose's Riparian Corridor Policy Study, any landscaping within the riparian setback area must consist of native trees and shrubs that naturally occur in the riparian habitat adjacent to the site (City of San Jose, 1994). Native tree and shrub species appropriate for planting in the setback area would include California sycamore, valley oak (*Quercus lobata*), Mexican elderberry, California bay, Fremont cottonwood (if permanent irrigation is supplied), California rose, California blackberry, common snowberry (*Symphoricarpus rivularis*), coyote brush, and mugwort (*Artemisia douglasiana*).



3.0 TREE SURVEY

3.1 Introduction

A survey of all ordinance size trees outside of the riparian corridor that could potentially be impacted by development on the San Jose Mercury News Residual Parcels was conducted. The purpose of the survey was to determine the species, location, size and health and vigor of the trees that could be impacted by the proposed development.

3.2 Methods

Botanist Brian Cleary of H. T. Harvey & Associates, conducted a tree survey on November 16, 1998. The diameter in inches at 2.0 feet above grade was measured for each tree. The location of each tree was mapped on an aerial photograph provided by San Jose Blue (1 in. = 100 ft.). A single combined diameter for multi-stemmed trees was calculated by adding the largest trunk diameter to half the diameters of the remaining trunks. This additive approach reflects the cross-sectional area of the combined trunks more accurately than adding the trunks together equally. The diameter of each trunk and the additive diameter of each tree are presented in Table 1.

Each tree was assigned a health and vigor rating based on the following scale:

0 = Dead

1 = Very Low Vigor

2 = Low Vigor

3 = Moderate Vigor

4 = High Vigor

5 = Very High Vigor

The City of San Jose Tree Ordinance defines an ordinance tree as "any woody perennial plant characterized by having a main stem or trunk which measures 56 inches or more in circumference (17.83 inches or more in diameter) at a height of 24-inches above natural grade slope." Ordinance status is therefore, determined by the largest trunk of each tree.

3.3 Results

A total of 30 trees were mapped and surveyed. Trees located within the jurisdictional protection of the Coyote Creek riparian corridor (parcels 35 and 51) were not surveyed. Most of the trees occupying the extreme southwestern margin of the property along Industrial Avenue are located on the west side of what is believed to be the parcel boundary fenceline and were therefore, not surveyed. The tree survey map is shown in Figure 3. Table 1 provides a summary of the survey results. The majority of these trees were non-native, ornamental species. Native species included 7 Fremont cottonwood (Populus fremonttii ssp. fremonttii) and 4 western sycamore (Platanus racemosa). Please

Table 1. Summary of Tree Survey Results for the San Jose Mercury News Residual Parcels, San

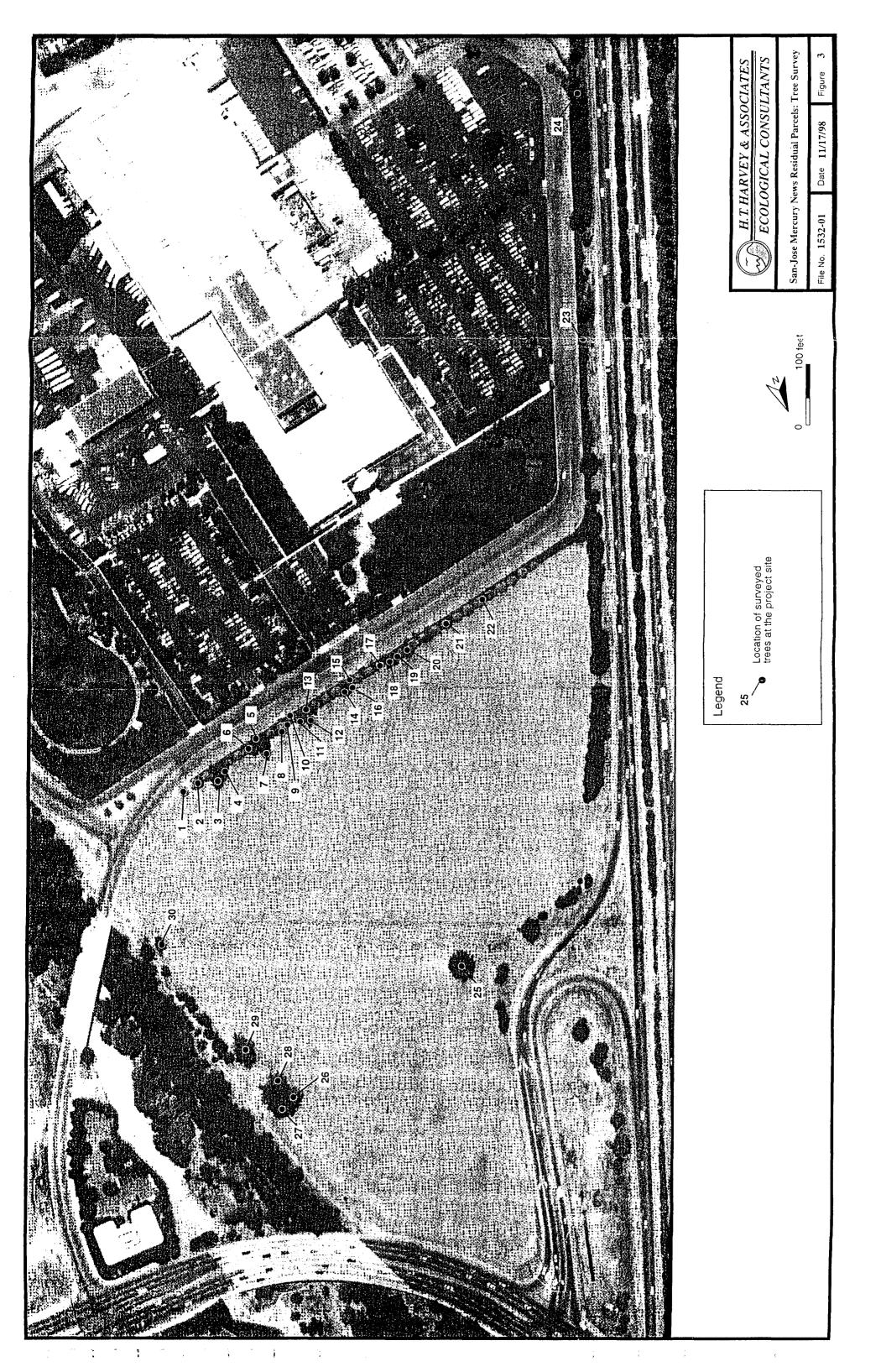
Jose, CA.

Tree #	Common Name	Scientific Name	Additive Diameter in Inches at 2 feet	Diameter(s) In Inches at 2 feet	Health and Vigor (0-5)
1	oleander	Nerium oleander	9	(4,3,3,2,2)	3
2	oleander	Nerium oleander	8	(4,3,2,2)	2
3	common olive	Olea europaea	11	(5,4,3,2,2)	3
4	oleander	Nerium oleander	7	(4,2,2,2)	2
5	Fremont cottonwood	Populus fremonttii ssp. fremonttii	21	(9,7,6,6,4)	3
6	pepper tree	Schinus molle	14	(8,7,4)	2
7	Fremont cottonwood	Populus fremonttii ssp. fremonttii	20	(9,7,6,4,4)	3
8	Fremont cottonwood	Populus fremonttii ssp. fremonttii	9	(4,4,3,3)	2
9	silver-leafed gum	Eucalyptus pulverulenta	16	16	3
10*	Fremont cottonwood	Populus fremonttii ssp. fremonttii	37	(20,18,8,5,3)	3
11	silver-leafed gum	Eucalyptus pulverulenta	10	(7,5)	2
12*	Fremont cottonwood	Populus fremonttii ssp. fremonttii	33	(18,16,8,6)	3
13	Fremont cottonwood	Populus fremonttii ssp. fremonttii	28	(12,11,6,6,4,4)	3
14	silver-leafed gum	Eucalyptus pulverulenta	8	8	2
15	Fremont cottonwood	Populus fremonttii ssp. fremonttii	11	(8,4,2)	1
16	pepper tree	Schinus molle	14	(11,5)	3
17	oleander	Nerium oleander	7	(3,2,2,2,2)	3
18	silver-leafed gum	Eucalyptus pulverulenta	15	(11,5,3)	2
19	pepper tree	Schinus molle	11	(7,5)	3
20	silver-leafed gum	Eucalyptus pulverulenta	. 11	(7,7)	3
21	common olive	Olea europaea	9	(4,3,3,2,2)	3
22	common olive	Olea europaea	3	3	2
23	common olive	Olea europaea	8	(4,3,2,2)	3
24	blue gum	Eucalyptus globulus	13	(6,4,4,3,2)	2
25	elm	Ulmus sp.	40	(12,11,10,10,9, 8,8)	3
26*	western sycamore	Platanus racemosa	30	30	4
27*	western sycamore	Platanus racemosa	56	56	4
28*	western sycamore	Platanus racemosa	68	68	4
29*	western sycamore	Platanus racemosa	40	40	4
30	pepper tree	Schinus molle	20	(14,12)	3

^{* =} Covered by the City of San Jose's Tree Ordinance

note that tree numbers 10, 12, and 26-29 are trees of ordinance size.

A review of the County of Santa Clara's Heritage Tree list determined that no heritage trees occur on site.



4.0 BURROWING OWL SURVEY

4.1 Introduction

The Burrowing Owl is a small, terrestrial owl that occurs in annual and perennial grasslands, deserts, and scrublands, with low-growing vegetation. Suitable owl habitat may also include trees and shrubs if the canopy does not cover more than 30% of the ground surface. Burrows, which provide protection, shelter, and nests for Burrowing Owls, represent an essential component of this species' habitat. Burrowing Owls typically use burrows made by fossorial mammals, such as ground squirrels or badgers, but will also use man-made structures such as culverts, or openings beneath cement, asphalt paving, or debris piles. Burrowing Owls use such sites for breeding, wintering, foraging, and migration stopovers. Occupancy of suitable habitat may be verified by observations of one or more Burrowing Owls on the site, or presence of owl feathers, cast pellets (or prey remains), eggshell fragments, or excrement in or near a burrow entrance.

4.2 Methods

On 9 November 1998, David Plumpton conducted a survey of the San Jose Mercury News Residual Parcels. The purpose of this survey was to identify any existing Burrowing Owls or potential for their use of the site that may be impeded by future development of the parcels.

4.3 Results

The site is mostly comprised of sparse, ruderal vegetation. Additionally, the site supports California ground squirrels (*Spermophilus beecheyi*) which create potential habitat for Burrowing Owls. No Burrowing Owls were observed during our initial survey, but because the site was consistent with potential habitat, a series of protocol-level surveys was required to determine with acceptable certainty whether Burrowing Owls occupied the site at this time. These protocol surveys were conducted on the mornings of 17, 18, and 19 November, 1998. No Burrowing Owls, nor secondary evidence of their occupancy of the site (*e.g.*, feathers, castings, prey remains) were observed during any of these surveys. Thus, it appears that the site is unused by Burrowing Owls at this time. Several small portions of the property have recently been graded and levelled. In those areas that had been graded, it cannot be determined whether Burrowing Owls or their habitat existed prior to this localized grading.

Please note that survey results can be used for pre-construction clearance for no more than 30 days. Additionally, these surveys occurred outside the peak nesting interval (15 April - 15 July). Therefore, these results may be used for information purposes or to provide pre-construction clearance, but cannot alone be used for California Environmental Quality Act (CEQA) project evaluation.

5.0 LITERATURE CITED

- City of San Jose. 1994. Riparian Corridor Policy Study. Approved by City Council on May 17, 1994.
- Rottenborn, S. C. 1997. The impacts of urbanization on riparian bird communities in central California. Ph.D. Dissertation, Stanford University, Palo Alto, CA.

I-880/RIDDER PARK DRIVE PROPERTY RIPARIAN ASSESSMENT AND BURROWING OWL SURVEY

Prepared by

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Dan Stephens, B.A., Principal-in-Charge John Bourgeois, M.S., Division Head Matt Quinn, M.S., Project Manager

Prepared For

David J. Powers & Associates

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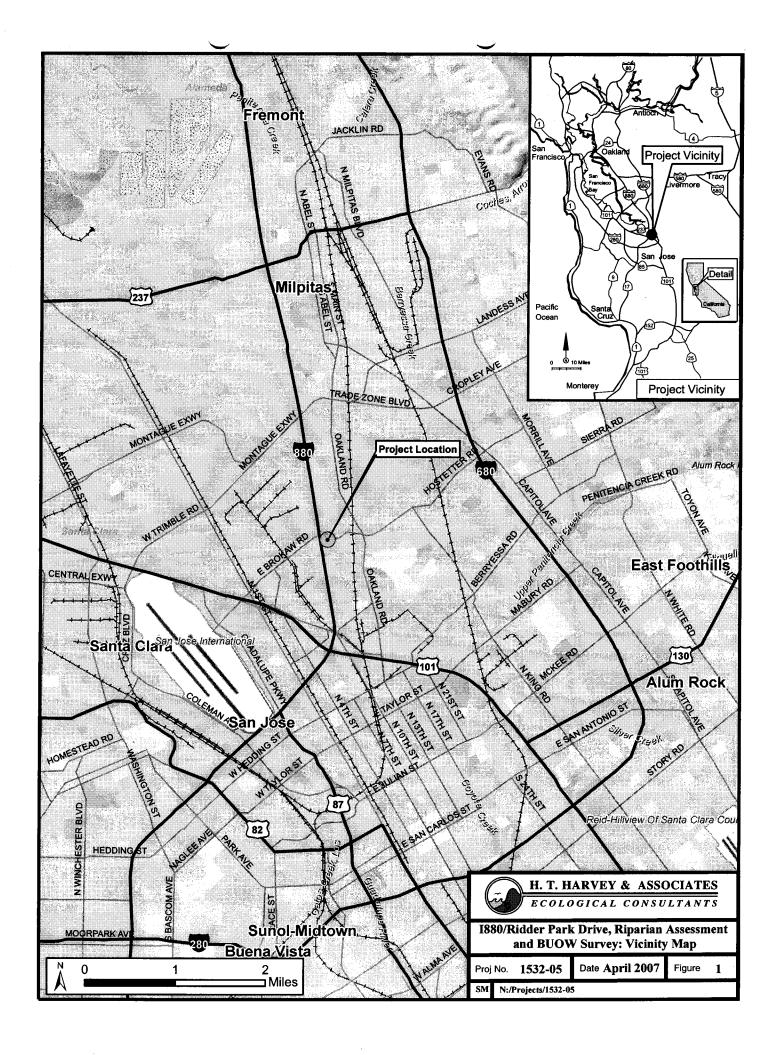
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INTRODUCTION

The I-880/Ridder Park Drive property, the subject of this report, is located south of Brokaw Road, north of Ridder Park Drive and west of Coyote Creek in San Jose, Santa Clara County, California (Figure 1). This report includes a survey of the riparian corridor of Coyote Creek adjacent to the property and a Burrowing Owl (*Athene cunicularia*) survey.



RIPARIAN SURVEY

A riparian survey of Coyote Creek bordering the I-880/Ridder Park Drive property was conducted in March 2007. The purpose of this survey was to determine the location of the riparian corridor on the property, evaluate the plant species composition and habitat quality of the riparian corridor and recommend an appropriate setback for any future development at the site. H. T. Harvey & Associates previously surveyed this site on 12 November 1998 (H. T. Harvey & Associates 1998).

METHODS

H. T. Harvey & Associates' senior ecologist M. Quinn conducted a riparian survey on 21 March 2007 with C. Junokas of Kier & Wright Civil Engineers & Surveyors. M. Quinn delineated the riparian corridor boundary along the western bank of Coyote Creek with pin flags and Mr. Junokas later added some wooden lathe stakes for his survey crew. The portion of the creek surveyed (survey reach) extends from the railroad tracks north to Brokaw Road. We defined the boundary of the riparian corridor as the top-of-bank, or the dripline of riparian vegetation where riparian vegetation extended beyond the top-of-bank. The riparian corridor boundary was to be subsequently surveyed in by Kier & Wright; H. T. Harvey & Associates was not scoped to produce any figures depicting site conditions. The species composition and habitat quality of the riparian plant association along the western bank of the survey reach was also assessed.

RIPARIAN HABITAT CHARACTERIZATION

Coyote Creek is a major drainage in the Santa Clara Valley. It carries perennial flows to San Francisco Bay and supports riparian forest throughout much of its length. A relatively dense, multi-layered canopy composed of mature, native tree species covers the riparian corridor throughout the survey reach. Fremont cottonwood (*Populus fremontii*) and California sycamore (*Platanus racemosa*) are the dominant overstory trees and range from approximately 20 feet to greater than 60 feet in height. The mid-level canopy comprises primarily box elder (*Acer negundo*), red willow (*Salix laevigata*), and English elm (*Ulmus campestris*). Mexican elderberry (*Sambucus mexicana*) and California bay (*Umbellularia californica*) also occur at lower abundances. The understory is composed primarily of California blackberry (*Rubus ursinus*) and periwinkle (*Vinca major*). Poison oak (*Toxicodendron diversilobum*) is a sub-dominant along the western bank of Coyote Creek and is abundant along the east bank of the survey reach. A small patch of giant reed (*Arundo donax*) occurs at the southern end of the survey reach. English elm, periwinkle and giant reed are all invasive, non-native species.

A levee borders the western edge of the riparian corridor between Ridder Park Drive and Brokaw Road. Coyote brush (*Baccharis pilularis*), a common native shrub on disturbed sites, is scattered in patches along the top of the levee. Two large, mature California sycamores are rooted approximately 50 feet west of the levee.

RIPARIAN SETBACK RECOMMENDATION

The close proximity of human activity and structures to riparian habitat adversely affects wildlife use within riparian corridors. Riparian corridor setbacks are the principle means of minimizing impacts to wildlife associated with human activities. Riparian setbacks of up to 100 feet are often recommended by the resource agencies (e.g., CDFG and USFWS). For these reasons, the City of San Jose established a Riparian Corridor Policy that uses 100 feet as its basic setback from streams with moderate to high quality riparian habitat (City of San Jose, 1994).

The riparian habitat along the survey reach is of high value to wildlife due to the dense cover, multi-layered structure, and food resources provided by the native riparian trees and shrubs. The riparian trees and shrubs that occur along the survey reach provide food, shelter, nesting, and an appropriate microclimate for wildlife that inhabit riparian ecosystems. Mature riparian habitat, such as that along the survey reach, has been found to support the highest diversity and abundance of bird species of any habitat type in Santa Clara Valley's urban landscape (Rottenborn 1997). Consequently, a 100-foot setback from the riparian corridor is recommended between Ridder Park Drive and Brokaw Road. If the development proposed for this parcel includes lighting along the outer edge of the 100-foot setback, the lighting should be directed away from the riparian corridor. If the lighting has to be mounted so that it is directed towards the corridor, such as on the back of a building, it should be focused downward and shielded from bearing directly into the corridor to the maximum extent feasible. If a moderate number of delivery trucks service the development (1-2 large trucks, several small trucks per day) the 100-foot setback should be sufficient to offset any impacts from vehicle noise, although if the City of San Jose finds that noise impacts will be excessive than an additional buffer of dense native vegetation could be planted within the riparian setback area.

Although riparian habitat quality is high throughout the survey reach, a reduced setback of 50 feet is recommended between the railroad tracks and Ridder Park Drive. A reduced setback is recommended for this reach because it is a site with a disproportionately long riparian frontage and is impacted by the presence of Shallenberger Road that runs along the western edge of the riparian corridor in this reach. The reduced setback will not significantly reduce or adversely impact the riparian corridor.

POTENTIAL DEVELOPMENT IN RIPARIAN SETBACK AREAS

If any part of the proposed development encroaches into the riparian setback areas it will require mitigation. All encroachment impacts should be mitigated at a 1:1 ratio (area of encroachment: area of native revegetation) by planting native riparian trees and shrubs. A qualified biologist should prepare a revegetation plan for any required mitigation. Native riparian vegetation such as California sycamore (*Platanus racemosa*), valley oak (*Quercus lobata*), Mexican elderberry (*Sambucus mexicana*), California bay (*Umbellularia californica*), California rose (*Rosa californica*), California blackberry (*Rubus ursinus*), and coyote brush (*Baccharis pilularis*) could be planted. Depending on the amount of encroachment impacts the mitigation plantings could be placed within the

riparian setback area immediately adjacent to the Coyote Creek riparian corridor. Mitigation could also include removal of non-native, invasive species such as giant reed and periwinkle. In addition, the planting plan should include adequate maintenance and monitoring of the riparian plantings to ensure success of the mitigation. In accordance with the City of San Jose's Riparian Corridor Policy Study, any proposed landscaping associated with the development within the riparian setback area must consist of native trees and shrubs that naturally occur in the riparian habitat adjacent to the site (City of San Jose, 1994).

BURROWING OWL SURVEY

The project site consists primarily of a field dominated by grasses and ruderal vegetation. In the San Jose area, such habitat types occasionally support Burrowing Owls, a California Department of Fish and Game (CDFG) species of special concern, if suitable burrows are present. As a result, surveys were conducted according to the CDFG protocol to determine if Burrowing Owls are present on this site.

METHODS

H. T. Harvey & Associates wildlife ecologist J.Gworek conducted a survey of the project site according to the CDFG protocol. Per the protocol, an initial field visit was conducted on 11 April 2007 to determine whether suitable habitat, including burrows such as those excavated by California ground squirrels (*Spermophilus beecheyi*), is present on the project site. Ms. Gworek walked closely-spaced transects throughout the entire project site, thoroughly searching the site for burrows suitable for use by Burrowing Owls, and for other evidence of Burrowing Owl presence.

RESULTS

No California ground squirrels or their burrows, nor any other burrows suitable for use by nesting or roosting Burrowing Owls, were observed on the project site. In addition, no Burrowing Owls or evidence (e.g., feathers) of Burrowing Owl presence was observed on the site. Because suitable habitat for Burrowing Owls is absent from the site, no further surveys were necessary, and it can be concluded that Burrowing Owls and their habitat are absent from the site.

LITERATURE CITED

- City of San Jose. 1994. Riparian Corridor Policy Study. Approved by City Council on May 17, 1994.
- H. T. Harvey & Associates. 1998. San Jose Mercury News Residual Parcels Riparian Survey. Prepared for David J. Powers & Associates.
- Rottenborn, S. C. 1997. The impacts of urbanization on riparian bird communities in central California. Ph.D. Dissertation, Stanford University, Palo Alto, CA.